

## **Report to the Council Housebuilding Cabinet Committee**



**Epping Forest  
District Council**

**Report reference: CHB-008-2021/22**  
**Date of meeting: 08 March 2022**

**Portfolio: Housing Services – Councillor H Whitbread**  
**Subject: Phase 5 sites to be appropriated**  
**Responsible Officer: Rochelle Hoyte (01992 562054)**  
**Democratic Services: Jackie Leither (01992 564756)**

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### **Recommendations/Decisions Required:**

That the schemes within Phase 5 be approved to be appropriated, noting the schemes already complete.

### **Executive Summary:**

The Cabinet has previously agreed a number of feasibility studies from the list of potential development sites for Council House-building, and the Cabinet Committee has also agreed at its meeting in 14<sup>th</sup> June 2021 a strategic approach to the prioritisation of those sites by area taking account of demand from those applicants registered on the Council's housing waiting list. This report seeks to batch those sites that have been agreed as viable into future phases, and to progress those sites through the planning and tender stages.

### **Reasons for Proposed Decision:**

To enable the sites within phase 5 to progress.

### **Other Options for Action:**

There are no other options for action.

### **Report:**

(1) That, the former garage sites and associated amenity land listed below as making up phase 5, be appropriated for planning purposes under provisions laid out in S122 of the Local Government Act 1972 and S226(1)(a) of The Town and Country Planning Act 1990 on the grounds that the land is no longer required for the purposes for which it is currently held in the Housing Revenue Account;

Beechfield Walk (Site B), Waltham Abbey

b) Burney Drive, Loughton

c) Castell Road Loughton

- d) Hornbeam Close (site A), Loughton **(Previously appropriated under phase 4)**
- e) Hyde Mead, Waltham Abbey
- f) Millbank, Ongar
- g) Pyrles Lane (Site A), Loughton **(Previously appropriated under phase 4)**
- h) Pyrles Lane (Site B), Loughton **(Previously appropriated under phase 4)**
- i) St Peters Avenue( West), Ongar **(Incorporating Shelly Close & Retail Units)**
- j) Acres Avenue, Ongar

That the following three sites do not require appropriation as they have been previously appropriated under phase 4 but have now been allocated to phase 5.

**Hornbeam Close (site A), Loughton,  
Pyrles Lane (Site A), Loughton,  
Pyrles Lane (Site B), Loughton**

### **Appropriation of the sites**

The Cabinet Committee have been delegated authority to appropriate land for planning purposes as set out in its Terms of Reference. However, as a reminder, the Council holds property for various statutory purposes in order to provide its various functions. Such land is used only for the purpose of the function for which it was originally acquired, until such time as the land is disposed of or “appropriated” for another use.

Appropriation is the procedure under the Local Government Act 1972 and Town and Country Planning Act 1990 to change the purpose for which the land is held for one statutory purpose to another, provided that the land is no longer required for the purpose for which it was held immediately before the appropriation.

The Council wishes to see each of the development sites redeveloped for the specific purpose of residential accommodation on a land which previously was used for garages and / or amenity land, which in the current usage the former are not fit for that purpose. By appropriating the sites for planning purposes, the Council will be able to secure its redevelopment and future use by relying on the statutory provisions relating to the redevelopment and disposal of the land held for planning purposes.

There is a risk that the proposed re-development scheme may be frustrated by third party rights, which would in turn frustrate the Council’s regeneration objectives for the sites. By appropriating land, once planning permission is obtained, the rights of affected third parties can be overridden to the extent that they become an entitlement to compensation rather than a right to obtain an injunction to prevent the scheme. It is not known at the date of this report whether or not there will be any rights which will need to be overridden. As the development proceeds and any third party rights are claimed decisions will need to be made as to whether or not the claimed right needs to be extinguished and/or overridden. If it is a right that can be proven then S237 of the Town and Country Planning Act 1990 provides for compensation to be paid. So as not to have to report back to Cabinet on each occasion it is recommended that the decision making process be delegated to **The Housing Development Service Manager (Rochelle Hoyte)**.

It is therefore recommended that the former garage sites and associated amenity land listed above as making up Phases 5, be appropriated for planning purposes under provisions laid out in Section 122 of the Local Government Act 1972 and Sections 226 (1)(a) and S237 Town and Country Planning Act 1990 on the grounds that the land is no longer required for the purposes for which it is currently held in the Housing Revenue Account;

## **Conclusion**

The development schemes under phase 5 are to be appropriated to allow to progress with the schemes ahead of any planning submission.

## **Resource Implications:**

None applicable.

## **Legal and Governance Implications:**

Having adopted a strategic approach, agreed in an open and transparent way, to the prioritisation of sites, it is considered good governance to follow that strategic approach. The procedures set out in the report need to be undertaken so as to ensure that the land is properly appropriated and any third-party rights properly extinguished.

## **Safer, Cleaner and Greener Implications:**

The continued delivery of the development housing programme will help address the antisocial behaviour issues raised within some of the sites, reducing the opportunity for fly-tipping and thereby contribute to a Greener environment. In addition, we are taking the necessary steps to move towards passivhaus standards in order to honour our commitment to being carbon neutral by 2030.

## **Consultation Undertaken:**

Interdepartmental involvement has and will continue to be engaged.

## **Background Papers:**

14<sup>th</sup> June 2021 cabinet report

## **Risk Management:**

The Risks associated with the delivery of the current housing development programme are identified within the Executive Report.

## **Equality Analysis:**

The Equality Act 2010 requires that the Public Sector Equality Duty is actively applied in decision-making. This means that the equality information provided to accompany this report is essential reading for all members involved in consideration of this report. The equality information is provided as an Appendix to this report.